

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt  
Clerk

100 EAST FIFTH STREET, ROOM 540  
POTTER STEWART U.S. COURTHOUSE  
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000  
[www.ca6.uscourts.gov](http://www.ca6.uscourts.gov)

Filed: May 13, 2022

Mr. Michael Hiram Carpenter  
Carpenter, Lipps & Leland  
280 N. High Street  
Suite 1300  
Columbus, OH 43215

Mr. Roger A. Cooper  
Cleary, Gottlieb, Steen & Hamilton  
One Liberty Plaza  
New York, NY 10006

Mr. James Patrick Davy  
Law Office  
P.O. Box 15216  
Pennsylvania, PA 19125

Mr. David A. Lebowitz  
Kaufman Lieb Lebowitz & Frick  
18 E. 48th Street  
Suite 802  
New York, NY 10017

Mr. Ilann Margalit Maazel  
Emery Celli Brinckerhoff Abady Ward & Maazel  
600 Fifth Avenue  
Tenth Floor  
New York, NY 10020

Mr. Tad Thomas  
Thomas Law Offices  
9418 Norton Commons Boulevard  
Suite 200  
Louisville, KY 40059

Ms. Caroline Hickey Zalka  
Weil, Gotshal & Manges  
767 Fifth Avenue  
New York, NY 10153

Re: Case No. 21-3991, *Timothy Moxley, et al v. The Ohio State University*  
Originating Case No. : 2:21-cv-03838

Dear Counsel,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Sharday S. Swain  
Case Manager  
Direct Dial No. 513-564-7027

cc: Mr. David John Barthel  
Ms. Marissa Benavides  
Mr. Timothy Raymond Bricker  
Ms. Alexandra Zoe Brodsky  
Ms. Debra L. Greenberger  
Ms. Sarah Braude Gutman  
Ms. Adele P. Kimmel  
Ms. Charity E. Lee  
Mr. Mitchell A. Lowenthal  
Mr. Seth Massey  
Mr. Richard W. Nagel  
Ms. Alexandra Rose  
Ms. Arianna M. Scavetti  
Mr. Scott E. Smith

Enclosure

No. 21-3991

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
May 13, 2022  
DEBORAH S. HUNT, Clerk

TIMOTHY MOXLEY, et al.,

Plaintiffs-Appellants,

V.

THE OHIO STATE UNIVERSITY,

Defendant-Appellee.

O R D E R

Before: McKEAGUE, WHITE, and READLER, Circuit Judges.

Plaintiffs appeal a district court order granting Defendant The Ohio State University's motion to dismiss in this case arising from sexual assault allegations against a university physician and team doctor. Plaintiffs move for leave file a corrected complaint and corrected amended complaint on the district court's docket to replace those already filed. They assert that the documents, as currently filed, each include one paragraph that inadvertently mentions a plaintiff's true name rather than using the appropriate John Doe designation. They seek this relief *nunc pro tunc*. Plaintiffs represent that Defendant consents to the corrected filings.

“The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record.” Fed. R. Civ. P. 60(a). “But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court’s leave.” *Id.* “The basic purpose of the rule is to

No. 21-3991

-2-

authorize the court to correct errors that are mechanical in nature.” *In re Walter*, 282 F.3d 434, 440 (6th Cir. 2002). Plaintiffs assert that only one paragraph of the original complaint, which was unchanged in the amended complaint, inadvertently failed to use the appropriate John Doe designation and instead referred to the plaintiff by name. Here, where Plaintiffs’ failure to use the appropriate John Doe designation arose from oversight or omission, application of Rule 60(a) is appropriate. *Cf. id.* at 441.

Accordingly, the motion for leave to correct filings *nunc pro tunc* is **GRANTED**.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", is written over a horizontal line.

Deborah S. Hunt, Clerk